

Comments on Future Work Regarding Graphical User Interface (GUI), Icon, and Typeface/Type Font Designs

SIPO has received WIPO Circular 1808 and wishes to put forward the following proposals after deliberation:

I. Proposals regarding graphical user interface (GUI) and icon designs

1. WIPO's Compilation of the replies to the Questionnaire on GUI, icon and typeface/type font designs has provided an overview of protection of GUIs and icons in different countries and relevant organizations. While the compilation provides useful information and helps to facilitate overall comparison, SIPO wishes to delve into other questions regarding the protection of GUIs. For example, is it possible for GUIs to be protected as virtual products as opposed to physical products? Does the view of a GUI have to be submitted with a product as its carrier? Does a GUI have to be protected as part of a product? How to distinguish the purely functional part in a GUI? Are the same infringement criteria that apply to other products applicable to GUIs (especially animated interfaces)? Future work as such can be pursued on the basis of simulated cases in combination with the jurisprudence of various countries in the form of an open-ended questionnaire and round table meetings.

2. It is proposed to explore the demand for GUI protection from the users' perspective by way of a questionnaire, focusing on uncovering what problems exist for GUI protection for users in their respective countries and regions.

3. What concerns China is the relationship between a GUI and the physical product it applies to. SIPO has noted that the following three questions in the questionnaire relate to that issue: Question 7 - Can a GUI and/or icon be patented/registered independently of the product that incorporates it or in relation to which it is to be used? Question 16 - Is the scope of protection of GUI and icons limited by the classification of the industrial design? Question 17 - Is a GUI and/or icon protected in relation to one product (e.g., a smartphone) also protected against its use in relation to another product (e.g., the display of a car)? SIPO believes that the three questions form a sound basis for discussions of the relationship between a GUI and the physical product it applies to. However, different countries only provided very brief responses to those questions. Some countries also mentioned that those questions couldn't be answered generally because they were closely related to specific

cases. Therefore, SIPO proposes to conduct more in-depth and detailed studies on those three questions. It is desirable to use cases, especially infringement cases from the courts, to elaborate the legal provisions and examination practices in various national offices, and to thoroughly explore the relationship between a GUI and the physical product it applies to.

II. Proposals regarding typeface/type font designs

1. China does not grant patent protection to typeface/type font designs, but it has done some research in that regard and wishes to discuss with other national offices the following issues by way of case studies: the scope of protection of typeface/type font designs, the specific formality of application documents, methods for determining novelty and inventiveness, as well as criteria for determining infringement of typefaces/type fonts.

2. It is proposed that countries and organizations providing double protection through both copyright and design laws to typefaces/type fonts be invited to WIPO-organized meetings to introduce their respective legal systems and practices, including criteria for determining infringement and relevant cases.